

UNITED STATES COURT
DISTRICT OF MASSACHUSETTS

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|-------------------------------------|---|--------------------|
| TERRI J. PEDATO, As Mother and Next |) | |
| Friend of RICHARD MORRILL |) | |
| Plaintiff |) | |
| |) | CIVIL ACTION |
| VS. |) | NO: 03CV-12223 RGS |
| |) | |
| FRED G. ARRIGG, JR., M.D., |) | |
| Defendant |) | |

JOINT MOTION TO AMEND DISCOVERY PLAN

Now come the parties in the above referenced matter and respectfully request that this Honorable Court amend the Discovery Plan by enlarging the time to conclude all discovery and expert disclosures as set forth below. As grounds therefore the parties state as follows:

(1) This is a complex medical malpractice action in which the plaintiff alleges that Dr. Arrigg negligently performed a revision tympanomastoidectomy resulting in an encephalocele and brain abscess.¹

(2) Dr. Arrigg's deposition has been scheduled for August 1, 2007 and is expected to go forward at that time. Once the deposition of Dr. Arrigg is taken, counsel can determine what additional depositions, including but not limited to expert depositions are required.²

(3) The trial in this action has been scheduled for December 10, 2007. Currently, all discovery is to be completed by August 31, 2007, with defendant's expert disclosures due on July 30, 2007. The parties are not requesting that the trial date be changed, but ask that the discovery

¹ The case was transferred to the Suffolk Superior Court for the limited purpose of convening a medical malpractice tribunal pursuant to M.G.L. ch. 231 § 60B and the case was stayed pending the decision of the tribunal. (Exhibit A). The case was not returned to the Federal Court until March 5, 2007. (Exhibit B).

² There are numerous physicians who have treated the minor plaintiff, Richard Morrill and multiple depositions of non-party witnesses that may be necessary in order to adequately assess the plaintiff's course of treatment and alleged damages.

order be modified to allow time to conduct the necessary discovery and to make expert disclosures.

The modifications requested will not result in any delay in the disposition of this case, as the trial date would remain as scheduled for December 10, 2007. The requested modifications to the discovery order will not result in any prejudice to either party.

WHEREFORE, for all the reasons set forth above, the parties respectfully request that this Honorable Court modify the discovery schedule as attached hereto to allow the parties to effectively use the time before trial to adequately prepare.

The Plaintiff,
By her attorney,
JOSEPH G. ABROMOVITZ, P.C.

The Defendant,
By his attorneys,
FICKSMAN & CONLEY, LLP

/s/ Joseph G. Abromovitz
JOSEPH G. ABROMOVITZ
858 Washington Street, 3rd Floor
Dedham, MA 02026
(781) 239-1080

/s/ Nicole M. Mason
NICOLE M. MASON, BBO # 647915
KENNETH D. WEISS, BBO # 521240
98 North Washington Street, Suite 500
Boston, MA 02114
(617) 720-1515

CERTIFICATE OF SERVICE

I hereby certify that on July 19, 2007, I served the above notice on the plaintiff in the above entitled action by mailing a copy thereof, postage prepaid, to their counsel of record Joseph G. Abromovitz, Esq., 858 Washington Street - Third Floor, Dedham, MA 02026.

/s/ Nicole M. Mason
NICOLE M. MASON

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PROPOSED AMENDED DISCOVERY PLAN

1. All depositions (except *de bene esse* and expert depositions) shall be concluded on or before September 14, 2007;
2. Any motions pursuant to Fed. R. Civ. P. 56 shall be brought on or before September 14, 2007;
3. Plaintiff's expert disclosure shall be made on or before September 28, 2007;
4. Defendant's expert disclosure shall be made on or before October 26, 2007;
5. Expert depositions are to be conducted on or before November 30, 2007.

The Plaintiff,
By her attorney,
JOSEPH G. ABROMOVITZ, P.C.

The Defendant,
By his attorneys,
FICKSMAN & CONLEY, LLP

/s/ Joseph G. Abromovitz
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/s/ Nicole M. Mason
NICOLE M. MASON